

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #10	CCRB Case #: 201705307	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/27/2017 11:40 PM	Location of Incident: Fulton Street and Clinton Avenue	Precinct: 88	18 Mo. SOL 12/27/2018	EO SOL 12/27/2018	
Date/Time CV Reported Wed, 06/28/2017 6:00 PM	CV Reported At: Office of the Borough President	How CV Reported: E-mail	Date/Time Received at CCRB Thu, 06/29/2017 4:32 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Eric Delman	00000	922228	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Paul Zinser	16883	958199	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Eric Delman	Abuse: Lieutenant Eric Delman threatened § 87(2)(b) and individuals with the use of force.	
B.LT Eric Delman	Abuse: Lieutenant Eric Delman threatened § 87(2)(b) with the use of force.	
C.LT Eric Delman	Force: Lieutenant Eric Delman used physical force against § 87(2)(b)	

Case Summary

On June 27, 2017, § 87(2)(b) filed this complaint with IAB via telephone on behalf of his friend, § 87(2)(b). On July 5, 2017, it was forwarded to the CCRB via IAB log #2017-2597. On June 28, 2017, § 87(2)(b) filed a duplicate complaint with the office of Brooklyn Borough President Eric Adams via email. Her complaint was forwarded to the CCRB on June 29, 2017.

At approximately 11:40 p.m. on June 27, 2017, § 87(2)(b) was socializing with several friends, including § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) near the intersection of Fulton Street and Clinton Avenue in Brooklyn. § 87(2)(b)'s vehicle was parked nearby. Eventually, § 87(2)(b) got into his vehicle to drive away. When he pulled out of his parking spot, he was pulled over by two plainclothes officers from the 88th Precinct, Lt. Eric Delman and PO John Paul Zinser. When the officers approached § 87(2)(b)'s vehicle, they told him that he had an active bench warrant. The officers ordered § 87(2)(b) to exit his vehicle. § 87(2)(b) got out and spoke to the officers at the rear of his vehicle. The other civilians in the area gathered around § 87(2)(b)'s vehicle to observe.

PO Zinser and Lt. Delman told § 87(2)(b) again that he had an active warrant. § 87(2)(b) told them that he did not believe them. During this discussion, the officers told the civilians to step away. At one point, Lt. Delman took out his taser, pointed it at the civilians, and told them to step away (**Allegation A**).

Lt. Delman and PO Zinser attempted to place § 87(2)(b) in handcuffs. While attempting to handcuff him, Lt. Delman allegedly pointed a taser at him (**Allegation B**). He then allegedly threw § 87(2)(b) to the ground (**Allegation C**). § 87(2)(b) was unresponsive after he fell to the ground. An ambulance was subsequently called for him. § 87(2)(b) was transported to § 87(2)(b). He was ultimately arrested and charged with resisting arrest, disorderly conduct, riot, operating a vehicle with tinted windows and failing to signal a turn. § 87(2)(b) was treated at § 87(2)(b) after his arrest.

There was no video footage for this incident.

Mediation, Civil and Criminal Histories

- This case is ineligible for mediation due to § 87(2)(b)'s hospitalization and arrest.
- A Notice of Claim request was submitted to the NYC Comptroller's office on September 22, 2017. It will be included in the case file upon receipt.
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Civilian and Officer CCRB Histories

- No previous CCRB complaints were filed by or involved § 87(2)(b) or § 87(2)(b)

- § 87(2)(b) [REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
- Lt. Delman has been a member of the service for nineteen years, and there are two substantiated CCRB allegations against him:
 - In case #20100719, a stop allegation was substantiated against him. The CCRB recommended that he receive departmental charges, but the NYPD issued him instructions.
 - In case #201304699, a retaliatory summons was substantiated against him. The CCRB recommended that he receive departmental charges, but the NYPD issued him formalized training.
 - Lt. Delman has been the subject of forty-three allegations across twenty previous complaints. Three previous physical force allegations have been closed as unfounded, exonerated, and complainant uncooperative, respectively. Four previous threat of force allegations have been closed as complaint withdrawn and unsubstantiated.

Potential Issues

- § 87(2)(b) [REDACTED] was identified as a victim via his arrest report. The report listed his address, but not his telephone number. CLEAR and Lexis Nexis searches returned one potential telephone number for § 87(2)(b) [REDACTED]. A BADS search returned an additional telephone number. Three please-call letters were mailed to § 87(2)(b) [REDACTED] between July 3, 2017 and July 17, 2017. Between July 3, 2017 and July 26, 2017, seven calls were made to the first telephone number. It was found to be out of service on each call. During a call to the second number on July 12, 2017, a female respondent stated that she did not know § 87(2)(b) [REDACTED] and that he was not available at her number. On August 9, 2017, § 87(2)(b) [REDACTED] called, stating that he had received the please-call letters. He provided a new telephone number, and scheduled an interview for August 18, 2017. § 87(2)(b) [REDACTED] did not appear for this interview, and did not call ahead to cancel or reschedule. Between August 22, 2017 and September 6, 2017, seven calls were made to § 87(2)(b) [REDACTED] at his updated number. Messages could not be left on any of these calls. To date, § 87(2)(b) [REDACTED] has not reached out to the CCRB. A September 22, 2017 search of the NYC Department of Correction's online inmate database showed that § 87(2)(b) [REDACTED] is not currently incarcerated. Since § 87(2)(b) [REDACTED] did not sign a HIPAA release form, his medical records could not be obtained.
- During a telephone statement on August 9, 2017, § 87(2)(b) [REDACTED] identified his girlfriend § 87(2)(b) [REDACTED] as a witness. He provided a telephone number for her. During a call later that day, § 87(2)(b) [REDACTED] provided her mailing and email addresses as well. She also identified herself as a victim of a separate allegation. She also stated that she had videos of the incident, and agreed to email them to the CCRB. § 87(2)(b) [REDACTED] was unable to schedule a sworn statement at the time, and asked to call her back in a few days. § 87(2)(b) [REDACTED] sent an

email on August 9, 2017, stating that the video file was too large to send via email. She was able to email a photograph that she took of Lt. Delman. Between August 14, 2017 and August 24, 2017, four additional calls were made to § 87(2)(b) to schedule her interview. Voicemails were left on each call. She was informed on the final voicemail that no further contact attempts would be made. Please-call letters were sent to § 87(2)(b) on August 14, 2017 and August 22, 2017. None of the letters sent to § 87(2)(b) were returned to the CCRB by the US Postal Service. To date, she has not responded to these contact attempts or provided copies of her video footage. A September 22, 2017 search of the NYC Department of Correction's online inmate database showed that § 87(2)(b) is not currently incarcerated.

- During her telephone statement on August 9, 2017, § 87(2)(b) stated that Lt. Delman threatened her and several friends with the use of force. She was only able to identify two of these friends, § 87(2)(b) and § 87(2)(b). She did not know their contact information. Searches of the CTS, CLEAR and Lexis Nexis databases returned no information for either of them. Contact attempts therefore could not be made to either of them. A September 22, 2017 search of the CTS database showed that neither § 87(2)(b) nor § 87(2)(b) is currently incarcerated.
- § 87(2)(b) provided his address and telephone number in his initial complaint. He also identified § 87(2)(b) by name as the person who was arrested during the incident on the IAB intake recording. During a telephone call on July 10, 2017, however, § 87(2)(b) stated that he did not know § 87(2)(b)'s name, and only knew the arrested individual by the nickname "§ 87(2)(b)". § 87(2)(b) declined to provide a statement regarding the incident, stating that "§ 87(2)(b) had told him to "forget about" the incident. § 87(2)(b) was informed that he could contact the CCRB again if he decided to provide a statement in the future. To date, § 87(2)(b) has not contacted the CCRB.
- Two separate ICAD events were generated in regards to this incident: #§ 87(2)(b) and #§ 87(2)(b) (See Board Review #03-04: ICAD Events). The first recorded § 87(2)(b) initial complaint to IAB. The second recorded an unidentified female calling to report that the police were harassing somebody near 909 Fulton Street, which is located at the intersection of Fulton Street and Clinton Avenue. This female hung up before connected to IAB. Her telephone number was obtained from the event information. After a first telephone call on July 26, 2017, the female provided a partial telephone statement. She asked to remain § 87(2)(b). She also indicated that she recorded video of the incident and would be willing to email it to the CCRB. The § 87(2)(b) female was unable to complete her telephone statement, and asked to call her back later. Between August 1, 2017 and August 14, 2017, six additional calls were made to her. Voicemails were left on each call. The § 87(2)(b) female did not respond to these contact attempts, and did not provide the video via email.
- § 87(2)(b) stated that her boyfriend, § 87(2)(b) also witnessed the incident alongside her. She provided his telephone number and mailing and email addresses. A first call was made to § 87(2)(b) on July 10, 2017, during which he

provided a telephone statement. It was later determined that § 87(2)(b) should be scheduled for a sworn statement as well. Please-call letters were mailed and sent to him on July 26, 2017 and August 3, 2017. Neither letter was returned to the CCRB by the US Postal Service. Between July 21, 2017 and August 3, 2017, four additional calls were made to § 87(2)(b). Messages were left on the first three calls. On the final call, § 87(2)(b) scheduled an interview for August 7, 2017. § 87(2)(b) did not appear for this interview, and did not call ahead to cancel or reschedule. To date, § 87(2)(b) has not contacted the CCRB to reschedule his interview.

- § 87(2)(b) stated that after the incident, she spoke to an employee at a convenience store located at 909 Fulton Street. The employee told her that he had also witnessed the incident. The store's telephone number was retrieved via Google Maps. Please-call letters were sent to the store on July 17, 2017 and August 7, 2017. The letters were not returned to the CCRB by the US Postal Service. During an initial phone call on July 17, 2017, an unidentified employee stated that the employee on duty at the time of the incident worked the overnight shift and was not available. He declined to take a message for this employee. During a second call on July 21, 2017, a message for the overnight employee was left with a store manager. During a third call on August 7, 2017, a message was left with the overnight employee with another unidentified employee. This individual declined to provide the overnight employee's name or contact information. On August 10, 2017, § 87(2)(b), the store's owner, left a voicemail stating that he spoke to the overnight employee, and that the employee denied any knowledge of the incident. § 87(2)(b) did not identify the employee or provide his contact information.
- Requests for Threat, Resistance and Injury Reports prepared in relation to § 87(2)(b)'s arrest were made to both the 88th Precinct and the in-house IAB liason. The 88th Precinct did not have the reports on file. The in-house liason was only able to obtain a copy of the report prepared by PO Zinser. This copy, however, was cut off, and could not be fully read. The liason was unable to locate a complete copy of the report (See Board Review #05: Partial TRI Report). No reports prepared by Lt. Delman were found at either command.

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority – Vehicle Stop:** It is undisputed that Lt. Delman and PO Zinser pulled over § 87(2)(b)'s vehicle. Both officers stated that § 87(2)(b) was pulled over after he failed to use his turn signal while pulling out of a parking stop. Lt. Delman also stated that they pulled § 87(2)(b) over because his vehicle's windows were tinted and he had an open warrant for his arrest. PO Zinser stated that he was not aware of the vehicle's tinted windows or § 87(2)(b)'s warrant until after the stop was initiated. After the stop, § 87(2)(b) was arrested. Among his charges was having a vehicle with improperly tinted windows and failing to signal a turn. Therefore, a vehicle stop allegation has not been pleaded in regards.

Allegation A –Abuse of Authority: Lieutenant Eric Delman threatened § 87(2)(b) and individuals with the use of force.

It is undisputed that after Lt. Delman and PO Zinser pulled § 87(2)(b)'s vehicle over, § 87(2)(b) exited his vehicle and spoke to the two officers by the rear of his vehicle. There, Lt. Delman and PO Zinser attempted to show § 87(2)(b) using their department-issued phone that he had an active warrant. Several of § 87(2)(b)'s friends, including § 87(2)(b) and § 87(2)(b) observed the officers' actions.

§ 87(2)(b) provided a telephone statement on August 9, 2017 (See Board Review #06: § 87(2)(b)'s Statement). § 87(2)(b) stated that when the officers spoke to § 87(2)(b) at the rear of the vehicle, she and § 87(2)(b)'s other friends, including § 87(2)(b) and § 87(2)(b) gathered around them. The civilians and the officers were all standing immediately next to each other, within arm's reach of each other. Lt. Delman made a telephone call to an unidentified party to verify § 87(2)(b)'s warrant. The person on the phone told Lt. Delman that § 87(2)(b)'s warrant was "ineffective." § 87(2)(b) and her friends told Lt. Delman that he should release § 87(2)(b) because his warrant was "ineffective." Lt. Delman then took out his taser and waved it towards the group. He stated that he would tase all of them if they did not step away from him. § 87(2)(b) and the other civilians walked over to the sidewalk. § 87(2)(b) was not aware of Lt. Delman pointing the taser at anybody else. She was not aware of Lt. Delman using the taser.

§ 87(2)(b) provided a telephone statement on August 9, 2017 (See Board Review #07: § 87(2)(b)'s Statement). § 87(2)(b) did not discuss the actions of his friends during his arrest in detail. While § 87(2)(b) noted that several of his friends observed his arrest, he did not indicate where they were standing or what, if any, interaction they had with Lt. Delman and PO Zinser. § 87(2)(b) made no mention of any officers pointing a taser at any of the civilians who observed his arrest.

An § 87(2)(b) female witness provided a telephone statement on July 26, 2017 (See Board Review #08: Witness Statement). She declined to identify herself, but she denied that she was familiar with § 87(2)(b) or his friends before the incident. The § 87(2)(b) witness did not provide a full statement, and could not be subsequently contacted to complete her statement. She made no mention of any officer pointing a taser at any of § 87(2)(b)'s friends. She also indicated that she arrived midway through the incident.

§ 87(2)(b) was interviewed at the CCRB on July 5, 2017 (See Board Review #09: § 87(2)(b)'s Statement). § 87(2)(b) provided a telephone statement on July 10, 2017 (See Board Review #10: § 87(2)(b)'s Telephone Statement). Neither of them was familiar with § 87(2)(b) or his friends. § 87(2)(b) and § 87(2)(b) arrived at the incident location after § 87(2)(b) had already been pulled over. They observed § 87(2)(b) standing at the rear of the vehicle with several plainclothes officers, including Lt. Delman. § 87(2)(b) noted that approximately thirty civilians were standing around § 87(2)(b)'s vehicle, while § 87(2)(b) put their numbers at around fifteen. While § 87(2)(b) did not indicate their proximity to § 87(2)(b) or Lt. Delman, § 87(2)(b) stated that the group was standing on the sidewalk next to § 87(2)(b)'s vehicle, about twenty feet away from § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b)

§ 87(2)(b) made any mention of Lt. Delman pointing a taser at the bystanders or otherwise threatening the bystanders with the use of force.

Lt. Delman was interviewed at the CCRB on September 20, 2017 (See Board Review #11: Lt. Delman's Statement). Lt. Delman stated that § 87(2)(b)'s group had been standing on the sidewalk when § 87(2)(b) was first pulled over. When § 87(2)(b) and the officers moved to the rear of the vehicle, this group came off of the sidewalk and stood a few feet away from where Lt. Delman was standing. The civilians were shouting angrily at the officers, protesting § 87(2)(b)'s stop. Both Lt. Delman and PO Zinser told the civilians several times to step back, but they ignored these commands. Given their anger and refusal to step back, Lt. Delman felt that the civilians posed a threat to his and PO Zinser's safety. Lt. Delman then drew his taser and pointed it at an unidentified male civilian who was standing closest to him. Lt. Delman told this male to step back. Lt. Delman noted that he removed the cartridge containing the taser's leads before pointing it at the civilian. Lt. Delman put away his taser and returned his attention to § 87(2)(b). He denied using the taser at any time.

PO Zinser was interviewed at the CCRB on September 15, 2017 (See Board Review #12: PO Zinser's Statement). He also indicated that § 87(2)(b)'s friends gathered around the officers when they spoke to § 87(2)(b) at the rear of the vehicle. He estimated that they were standing about ten feet away from the officers. In addition to shouting at the officers, PO Zinser also alleged that these civilians started to throw pieces of garbage at him and Lt. Delman. Neither officer was struck by any objects. Both Lt. Delman and PO Zinser told these civilians to step back. The civilians ignored these commands. Lt. Delman then drew his taser and told the crowd again to stand back. PO Zinser was speaking directly to § 87(2)(b) at that point, so he did not see where Lt. Delman pointed the taser. The crowd did not move back, and continued to shout. Lt. Delman then put away his taser and resumed speaking to § 87(2)(b). PO Zinser then approached the crowd and asked them to calm down. This time, the civilians listened to PO Zinser and ceased shouting.

As discussed above, complete copies of the Threat, Resistance and Injury Reports prepared for this incident could not be obtained. Captain Brian Crowley of Transit Bureau Investigations prepared an Investigating Supervisor's Assessment Report for this incident, based on testimony from Lt. Delman and PO Zinser (See Board Review #13: ISAR). This report makes no mention of Lt. Delman or any other officer drawing or displaying his taser at any point.

NYPD Patrol Guide procedure 212-117 states that conducted energy devices such as tasers may be used in order to overcome resistance while effecting an arrest or when taking a mentally ill or an emotionally disturbed person into custody (See Board Review #14: Legal Reference).

§ 87(2)(g)
§ 87(2)(b). The only civilian who raised this allegation was § 87(2)(b) who only provided a limited telephone statement. She did not appear at the CCRB for a sworn statement, and did not provide an in-depth account of the actions of either the crowd or Lt. Delman. § 87(2)(b) did not raise this allegation, and did not discuss the actions of the crowd during his telephone statement. While the § 87(2)(b) female witness, § 87(2)(b) and § 87(2)(b) did not discuss this allegation or describe the crowd's actions in detail, it is not clear

if this was because they were not present, or were simply unable to clearly see the crowd from their position.

§ 87(2)(g)

Allegation B –Abuse of Authority: Lieutenant Eric Delman threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that when he spoke to the officers at the rear of the vehicle, he told them that he was not going to let them arrest him. He did not state whether he was making any movements. Lt. Delman told him, “We can do this the easy way or the hard way.” § 87(2)(b) replied that the officers would have to arrest him “the hard way.” Lt. Delman then drew his taser and pointed it at § 87(2)(b)’s face. He told § 87(2)(b) that if he did not put his hands behind his back, then he would be tased. § 87(2)(b) refused to do so. Lt. Delman then put away his taser. He did not use the taser against § 87(2)(b) at any point.

§ 87(2)(b) did not see Lt. Delman point a taser at § 87(2)(b) or otherwise threaten him with the use of force. She noted that after Lt. Delman had pointed his taser at her and her friends, she walked over to the driver’s seat of § 87(2)(b)’s vehicle to retrieve its keys. When she returned to the rear of the vehicle, she found that § 87(2)(b) was lying on the ground. She had not witnessed what happened to § 87(2)(b) while she was at the driver’s seat.

The § 87(2)(b) female witness stated that Lt. Delman attempted to use a taser on § 87(2)(b) before he was arrested. She did not describe this action in detail, and did not indicate what prevented Lt. Delman from using the taser. The witness did not describe § 87(2)(b)’s actions during the incident in detail, either.

§ 87(2)(b) and § 87(2)(b)’s statements regarding this allegation were generally consistent with each other. They both stated that they observed § 87(2)(b)’s interaction with Lt. Delman from the opposite side of the street. § 87(2)(b) however, stated that § 87(2)(b) crossed to the other side of the street to get closer to § 87(2)(b) at the time of the allegation. They were not able to hear what they were saying to each other. § 87(2)(b) was not moving, and did not take any aggressive actions towards Lt. Delman. Lt. Delman appeared to be agitated, and was pacing back and forth in front of § 87(2)(b). Lt. Delman then drew his taser and pointed it at § 87(2)(b)’s chest. The taser’s red targeting light was visible on § 87(2)(b)’s chest. Another officer then stepped in front of § 87(2)(b) blocking the taser. Lt. Delman then put his taser away.

Both Lt. Delman and PO Zinser denied that Lt. Delman pointed a taser at § 87(2)(b) at any time. They denied that any officer placed themselves in front of § 87(2)(b) to prevent him from being tased. They denied that Lt. Delman threatened to use a taser or any other form of physical force against § 87(2)(b).

As mentioned above, Captain Crowley prepared an Investigating Supervisor's Assessment Report in regards to this incident (See Board Review #13: ISAR). It was based off of Lt. Delman's and PO Zinser's testimony. The report made no mention of Lt. Delman or any other officer drawing a taser at any time.

NYPD Patrol Guide procedure 212-117 states that conducted energy devices such as tasers may be used in order to overcome resistance while effecting an arrest or when taking a mentally ill or an emotionally disturbed person into custody. Factors to be considered when determining the appropriate level of force to use against an individual include the officer's perception of the subject's willingness to resist, an officer's perception of the immediate threat posed to the people present, and the officer's location in a hostile environment (See Board Review #14: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

As discussed above, Lt. Delman and PO Zinser had indicated that they felt threatened by the actions of the crowd earlier in the incident. While it is undisputed that a crowd did form, the balance of testimony indicates that any threat that the crowd posed had been diminished by the time that Lt. Delman threatened § 87(2)(b) with his taser. § 87(2)(g)

[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation C –Force: Lieutenant Eric Delman used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after Lt. Delman threatened to use his taser against him, Lt. Delman grabbed both of his arms and threw him down to the ground. § 87(2)(b) did not indicate what, if any, physical actions he took immediately before Lt. Delman grabbed him. Once § 87(2)(b) struck the ground, he immediately lost consciousness. When he next regained consciousness, he was in § 87(2)(b). He denied sustaining any physical injuries from the incident. Since § 87(2)(b) did not sign a HIPAA release form, his medical records could not be obtained.

As mentioned above, § 87(2)(b) filed one previous complaint with the CCRB, case #201405612. In this incident, Det. Sekou Bourne of Brooklyn North Narcotics punched § 87(2)(b) became unresponsive afterwards. § 87(2)(b) alleged that he was knocked unconscious by Det. Bourne’s blow. During his CCRB statement, Det. Bourne stated that he suspected that § 87(2)(b) had pretended to be unconscious in order to force the officers to take him to the hospital. He suspected this because he allegedly noticed § 87(2)(b) smirking as he lay on the ground. The investigation was unable to conclusively determine whether § 87(2)(b) was actually unconscious during this incident.

As noted earlier, § 87(2)(b) was at the driver’s seat of § 87(2)(b)’s vehicle when § 87(2)(b) went to the ground. She did not see how § 87(2)(b) came to be on the ground. She did not see any officer use physical force against § 87(2)(b).

The § 87(2)(b) female witness stated that after Lt. Delman attempted to use his taser on § 87(2)(b) he placed § 87(2)(b) in handcuffs and “dumped” him on the ground. She did not describe this action in detail. She also did not describe § 87(2)(b)’s conduct before Lt. Delman “dumped” him onto the ground.

§ 87(2)(b) and § 87(2)(b)’s statements regarding this allegation were generally consistent with each other. They both stated that after Lt. Delman pointed his taser at § 87(2)(b) he grabbed § 87(2)(b) by both of his shoulders and threw § 87(2)(b) to the ground. No other officer made contact with § 87(2)(b) at that time. § 87(2)(b) stated that § 87(2)(b) landed on his front, while § 87(2)(b) stated that he landed on his side. Both stated that § 87(2)(b)’s body went limp once he struck the ground. § 87(2)(b) did not move and appeared to be unconscious. No further force was used against § 87(2)(b). § 87(2)(b) did not observe any physical injuries to § 87(2)(b). § 87(2)(b) remained unconscious even after he was loaded into an ambulance.

Lt. Delman stated that after trying unsuccessfully to convince § 87(2)(b) that he had an active warrant, he attempted to place § 87(2)(b) in handcuffs. Lt. Delman placed his hands on § 87(2)(b)’s arms in an effort to turn § 87(2)(b) around to face his vehicle. From this position, he intended to bring § 87(2)(b)’s arms behind his back. § 87(2)(b) tried to prevent the officers from controlling his arms by placing both of his arms against his chest and moving his shoulders away

from Lt. Delman. Lt. Delman tried to pull § 87(2)(b)'s arms from his chest, but was not successful. He told § 87(2)(b) several times to give control of his hands. § 87(2)(b) replied, "I'm not being arrested. You are gonna have to take me to the hospital." Lt. Delman then placed his hands on § 87(2)(b)'s shoulders. § 87(2)(b) reacted by throwing himself to the ground. He landed on his back. Lt. Delman denied that he pushed or threw § 87(2)(b) to the ground. He denied taking any action to forcibly bring § 87(2)(b) to the ground. Once § 87(2)(b) landed on the ground, he closed his eyes and appeared to go unconscious. He did not have any physical injuries. Lt. Delman did not believe that § 87(2)(b) was knocked unconscious by his fall, as § 87(2)(b)'s head did not strike the ground at any point. As such, he concluded that § 87(2)(b) was either having a seizure of some kind, or that § 87(2)(b) was pretending to be unconscious. An ambulance was called for § 87(2)(b) and he was taken to § 87(2)(b). § 87(2)(b) remained unresponsive during the trip. At the hospital, a doctor stated aloud that he was going to place a breathing tube down § 87(2)(b)'s throat. Lt. Delman explained that the doctor was not actually attempting to intubate § 87(2)(b) but was engaged in a ruse to determine if § 87(2)(b) was pretending to be unconscious. When the doctor made this statement, § 87(2)(b) immediately came to.

PO Zinser's statement was generally consistent with Lt. Delman's. He stated that he also attempted to gain control of § 87(2)(b)'s arms and turn him to face the rear of his vehicle. § 87(2)(b) resisted the officers by placing his hands across his chest. He also stated that § 87(2)(b) threw himself to the ground. He did not recall Lt. Delman or any other officer taking any action to deliberately force § 87(2)(b) to the ground. PO Zinser denied doing so himself. PO Zinser made no mention of § 87(2)(b) telling the officers before he went to ground that they would have to take him to a hospital. § 87(2)(b) appeared to go unconscious as soon as he hit the ground. PO Zinser tapped him on the shoulder several times to check on him, but § 87(2)(b) did not respond. PO Zinser also indicated that § 87(2)(b) later roused at the hospital when a doctor stated that he was going to place a tube down § 87(2)(b)'s throat. PO Zinser did not categorize this action as a ruse on the doctor's behalf.

PO Zinser's memo book entry from the incident stated that § 87(2)(b) was restrained using a "grapple hold" and a "take down" (See Board Review #15: Memo Book). When asked what he was referring to, PO Zinser stated that this was a reference to his and Lt. Delman's effort to turn § 87(2)(b) around. He denied that these statements referred to any deliberate effort to bring § 87(2)(b) to the ground.

As mentioned above, Captain Crowley prepared an Investigating Supervisor's Assessment Report in regards to this incident (See Board Review: ISAR). It was based off of Lt. Delman's and PO Zinser's testimony. The report states that § 87(2)(b) threw himself to the ground when officers attempted to handcuff him, and that he appeared to go unconscious.

As noted earlier, § 87(2)(b)'s medical records could not be obtained. A Medical Treatment of Prisoner Report was prepared for him (See Board Review #16: MTPR). The report indicates that § 87(2)(b) was treated at § 87(2)(b) for "dizziness."

NYPD Patrol Guide procedure 221-01 states that officers may use force when placing a person into custody. Officers will only use the reasonable amount of force necessary to gain control or custody of a subject (See Board Review #17: Legal Reference).

§ 87(2)(g)
[Redacted text block]

[Redacted text block]

§ 87(2)(g)
[Redacted text block], § 87(2)(g)
[Redacted text block]

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date